

Senate File 2004 - Introduced

SENATE FILE 2004

BY JOHNSON

A BILL FOR

1 An Act relating to the use of hand-held electronic
2 communication devices while driving, and making penalties
3 applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.276, Code 2016, is amended to read
2 as follows:

3 **321.276 Use of electronic communication device while driving**
4 ~~— text messaging.~~

5 1. For purposes of this section:

6 ~~a. "Engage in a call" means talking or listening on a mobile~~
7 ~~telephone or other portable electronic communication device.~~
8 "Electronic message" means a self-contained piece of digital
9 communication that is designed or intended to be transmitted
10 between physical devices. "Electronic message" includes but is
11 not limited to telephone calls, video calls, electronic mail,
12 text messages, instant messages, and commands or requests to
13 access an internet site.

14 ~~b. "Hand-held electronic communication device" means a~~
15 ~~mobile telephone or other portable electronic communication~~
16 ~~device capable of being used to write~~ compose, send, receive,
17 ~~or read a text~~ an electronic message. "Hand-held electronic
18 communication device" does not include a voice-operated or
19 hands-free device which allows the user to write compose, send,
20 receive, or read a text an electronic message without the use
21 of either hand except to activate or deactivate a feature or
22 function. "Hand-held electronic communication device" does not
23 include a wireless communication device used to transmit or
24 receive data as part of a digital dispatch system. "Hand-held
25 electronic communication device" includes a device which is
26 temporarily mounted inside the motor vehicle, unless the device
27 is a voice-operated or hands-free device.

28 ~~c. "Text message" includes a text-based message, an instant~~
29 ~~message, and electronic mail.~~

30 ~~d. The terms "write", "send", and "read", with respect~~
31 ~~to a text message, mean the manual entry, transmission, and~~
32 ~~retrieval of a text message, respectively, to communicate with~~
33 ~~any other person or device.~~

34 2. A person shall not use a hand-held electronic
35 communication device ~~to write, send, or read a text message~~

1 while driving a motor vehicle unless the motor vehicle is at a
2 complete stop off the traveled portion of the roadway.

3 a. A person does not violate this section by using a global
4 positioning system or navigation system ~~or when, for the~~
5 ~~purpose of engaging in a call, the person selects or enters a~~
6 ~~telephone number or name in a hand-held mobile telephone or~~
7 ~~activates, deactivates, or initiates a function of a hand-held~~
8 ~~mobile telephone.~~

9 b. The provisions of ~~this subsection~~ relating to reading a
10 ~~text message~~ do not apply to the following persons:

11 (1) A member of a public safety agency, as defined in
12 section 34.1, performing official duties.

13 (2) A health care professional in the course of an emergency
14 situation.

15 (3) A person sending or receiving safety-related
16 information including emergency, traffic, or weather alerts.

17 3. Nothing in this section shall be construed to authorize
18 a peace officer to confiscate a ~~portable~~ hand-held electronic
19 communication device from the driver or occupant of a motor
20 vehicle.

21 4. a. A person convicted of a violation of this section
22 is guilty of a simple misdemeanor punishable as a scheduled
23 violation under section 805.8A, subsection 14, paragraph "1".

24 b. A violation of this section shall not be considered a
25 moving violation for purposes of this chapter or rules adopted
26 pursuant to this chapter.

27 ~~5. A peace officer shall not stop or detain a person solely~~
28 ~~for a suspected violation of this section. This section is~~
29 ~~enforceable by a peace officer only as a secondary action when~~
30 ~~the driver of a motor vehicle has been stopped or detained for~~
31 ~~a suspected violation of another provision of this chapter, a~~
32 ~~local ordinance equivalent to a provision of this chapter, or~~
33 ~~other law.~~

34 ~~6.~~ 5. The department, in cooperation with the department of
35 public safety, shall establish educational programs to foster

1 compliance with the requirements of [this section](#).

2 Sec. 2. Section 805.8A, subsection 14, paragraph 1, Code
3 2016, is amended to read as follows:

4 1. ~~Text-messaging~~ Use of electronic communication device
5 while driving violations. For violations under [section 321.276](#),
6 the scheduled fine is thirty dollars.

EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 Currently, Code section 321.276 prohibits the use of a
11 hand-held electronic communication device to write, send, or
12 read a text message while driving a motor vehicle. This bill
13 expands that provision to prohibit any use of a hand-held
14 electronic communication device while driving. A hand-held
15 electronic communication device is a device used to compose,
16 send, receive, or read any electronic message, including
17 telephone calls, video calls, electronic mail, text messages,
18 instant messages, and commands or requests to access an
19 internet site. However, the bill does not alter the exceptions
20 existing under current law, including the use of hands-free
21 devices and global positioning systems while driving. The
22 bill eliminates the provision prohibiting a peace officer from
23 stopping or detaining a person solely for a violation of Code
24 section 321.276.

25 The bill rewords the applicable scheduled fine provision
26 to comply with the bill. The scheduled fine for a violation
27 of Code section 321.276 remains \$30. Under current law, the
28 offense is not a moving violation, and therefore cannot be
29 considered for purposes of administrative suspension of a
30 driver's license or to establish habitual offender status.
31 However, under Code section 321.482A, if the violation causes a
32 serious injury, a court could impose an additional fine of \$500
33 or suspend the person's driver's license for not more than 90
34 days, or both. If the violation causes a death, a court could
35 impose an additional fine of \$1,000 or suspend the person's

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1 driver's license for not more than 180 days, or both.